

Advisory Action

Application No.

09/911,017

Applicant(s)

HANES, DAVID H.

Examiner

Ting Zhou

Art Unit

2173

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-20

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


JOHN CABECA
SUPERVISORY PATENT EXAMINER
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Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments have been fully considered but they are not persuasive. The applicant reasserts that Dimitrova et al. do not teach or suggest "storing the formatted scene candidates on the optical storage media in a media structure without reducing the recordable capacity", as recited in the independent claims of the applicant's invention. However, the examiner respectfully disagrees. As previously stated in the final rejection dated 24 September 2004, there is no explanation in the recitation of the independent claims of how the formatted scene candidates are stored on the optical storage media without reducing the recordable capacity. However, in order to expedite prosecution, the examiner will gladly interpret the limitation in light of the specification. As described in the specification of the application, the optical storage media "includes an area allocated to store additional information that maybe used for interchange between data interchange parties that does not reduce the recordable capacity" (page 10, lines 25-28). Therefore, there is an area on the optical storage set aside to be used for storing formatted information instead of being used as part of the recording capacity. In the Dimitrova et al. reference, it is disclosed that the visual index created by formatting the video content via extracting and filtering keyframes may be created on a pre-existing tape or while a tape is recording (Dimitrova et al.: column 2, lines 37-65). Dimitrova et al. further teach that the visual index is created on a selected predetermined portion of the tape (Dimitrova et al.: column 2, lines 37-45). Therefore, the optical storage media, such as the tape, DVD, etc. of Dimitrova et al. is partitioned so that a selected structure, or area, on the tape, DVD, etc. is used for storing the formatted video content, represented by the visual index, instead of being used for recording information. Since the visual index is only stored in this predetermined portion set aside for storing such information, it does not use the other portions of the tape and thus the recording capacity of the tape is not comprised. Although there are no specific limitations in the independent claims describing how formatted information is stored on the optical media without reducing the recordable capacity, the method of setting aside a predetermined area on the tape to be used for storing the visual index taught by Dimitrova et al. is similar to the method of allocating an area for storing additional information, described in the specification of the application. Therefore, it can be seen that the Dimitrova et al. reference anticipates the subject invention..